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FAO No.571/2002

IN THE HIGH COURT OF DELHI AT NEW DELHI

FAO No.571/2002

Date of Decision : October 30, 2003

SARDAR KASHMIR SINGH & OTHERS

.... Appellants
Through
Mr.O.P. Mannie
Advocate

VERSUS

SHRI GURMUKH SINGH AND OTHERS

.... Respondents

Through
Mr.Ashok Kumar for Resps.1&2
Mr.Mohan Babu Aggarwal for
Insurance Company
Advocates

**CORAM:
HON'BLE MR.JUSTICE S.K.MAHAJAN**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

yes
yes

S.K.MAHAJAN, J. (ORAL) :

ADMIT.

The matter being short, with the consent of the parties, the same has been heard and disposed of by this order.

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The appellant has filed this appeal for enhancement of compensation for the death of one Smt. Simranjeet Kaur, daughter-in-law of appellants 1 and 2 and mother of appellant No.3 in a road accident caused by the rash and negligent driving of the offending vehicle by its driver.

The only point argued by learned counsel for the appellant is that after taking notional income of the deceased at Rs.15,000/- per annum, the tribunal has not taken into consideration the rise in the cost of living and inflation so as to arrive at the average notional income to assess the loss of dependency to the family. It is no longer res-integra that while assessing the loss of dependency to the family of the deceased, the courts and the tribunals are required to take into consideration not only the future prospects in the life and career of the deceased but also the increase in the cost of living and inflation. The deceased being the housewife was rendering multifarious services to the family and because of her death, the family may have to hire a person for rendering some of those services. Second Schedule to the Motor Vehicles Act was inserted in the year 1994. Notional income to be taken into consideration for the award of compensation for those persons who have no income is part of Second Schedule. Because of increase in cost of living and inflation, the Government of India has been issuing notifications to increase even the minimum wages paid to the workers from time to time and, in my opinion, in the same manner, the notional income mentioned in the Second Schedule is also required to be increased periodically. This court will, therefore, not be in error in estimating the average notional income of the deceased at Rs.22,500/- per year. Deducting 1/3rd from this income towards her personal expenses, the loss of dependency to the family would come to Rs.15,000/- per year. The deceased was only 26 years of age at the

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time of the accident and, therefore, applying the multiplier of 18, as has been applied by the tribunal, the total loss of dependency to the family would come to Rs.2,70,000/-. Adding to this a sum of Rs.29,000/- as non-pecuniary damages towards funeral expenses and loss of love and affection and estate, etc., as has been awarded by the tribunal, the total compensation to which the appellants would be entitled comes to Rs.2,99,000/-.

I, accordingly, allow this appeal, modify the award and direct that the appellants would be entitled to the compensation of Rs.2,99,000/- from the respondents. The appellants will also be entitled to interest @ 8% per annum on the enhanced compensation from the date of filing of the application before the tribunal till payment.

October 30, 2003
'Kapil'


(S.K.MAHAJAN)
JUDGE